

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA                   \*     CRIMINAL ACTION  
   \*     NUMBER 07-10030-01  
   \*  
vs.   \*     January 28, 2008  
   \*     1:35 p.m.  
   \*  
RICHARD L. McNAIR                         \*     Alexandria, Louisiana  
   \*  
\* \* \* \* \*

CHANGE OF PLEA

Certified transcript of proceedings before the Honorable  
Dee D. Drell, United States District Judge.

APPEARANCES:

FOR THE GOVERNMENT:     James G. Cowles, Jr.  
   United States Attorney's Office  
   300 Fannin Street, Suite 3201  
   Shreveport, Louisiana 71101-3068

FOR THE DEFENDANT:     Wayne J. Blanchard  
   Federal Public Defenders Office  
   102 Versailles Boulevard, Suite 816  
   Lafayette, Louisiana 70501

REPORTED BY:             Myra Primeaux, RMR, CRR  
   Post Office Box 348  
   Alexandria, Louisiana 71309-0348  
   Phone: (318) 442-3080

Proceedings recorded by mechanical stenography, transcript  
produced by computer.

1 THE COURT: All right. The matter that's on the  
2 docket for this afternoon, the first one, at least, is  
3 Criminal Number 07-10030 entitled *United States v. Richard*  
4 *L. McNair*.

5 Y'all please make your appearances for the record at  
6 this point.

7 MR. COWLES: Jim Cowles on behalf of the United  
8 States, Your Honor.

9 MR. BLANCHARD: Wayne Blanchard for Richard  
10 McNair, and this is Mr. McNair on Your Honor's right.

11 THE COURT: All right. How are you, Mr. McNair?

12 THE DEFENDANT: Fine, sir. Thank you.

13 THE COURT: Mr. Blanchard. It's nice to see all  
14 of you here today.

15 MR. BLANCHARD: Good afternoon.

16 THE COURT: My appreciation is that the matter is  
17 coming on this afternoon for a change of plea. Is that  
18 correct at this point?

19 MR. BLANCHARD: Yes, Your Honor, it is.

20 MR. COWLES: Yes, Your Honor.

21 THE COURT: Are there any filings at this point,  
22 Mr. Cowles?

23 MR. COWLES: Yes, Your Honor. At this time we  
24 will file the executed plea agreement and an executed  
25 understanding of rights signed by all parties.

1 THE COURT: Let me look at those. Thank you.

2 Are these in the same form that were furnished to  
3 chambers earlier?

4 MR. COWLES: Yes, Your Honor.

5 THE COURT: Very well. Mr. McNair, your  
6 signature appears on these documents, does it?

7 THE DEFENDANT: Yes, Your Honor, it does.

8 THE COURT: And you've had occasion to go over  
9 the content of these documents with your attorney?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you feel like at this point you  
12 need to have any further consult with him about them?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: All right. Good. I'm going to be  
15 asking you a number of questions about them later, but for  
16 the moment, I'll understand that you voluntarily signed  
17 these documents. Would that be right?

18 THE DEFENDANT: Yes, Your Honor, I did.

19 THE COURT: Mr. Cowles, I think I may know the  
20 answer to this, but I'm obliged to ask you, are there any  
21 victims of the offense and is there any issue with the  
22 government notifying victims of this hearing, their right  
23 to attend?

24 MR. COWLES: No, Your Honor.

25 THE COURT: No, there aren't victims?

1 MR. COWLES: No, there aren't victims.

2 THE COURT: All right. Thank you very much.

3 Mr. McNair, I'm sure you've conferred with Mr.  
4 Blanchard about the charge against you. It is my duty,  
5 however, to inform you, this afternoon I'm going to be  
6 asking you some questions in the case that will be answered  
7 after you've promised to tell me the truth. And that being  
8 the case, if your answers are substantively inaccurate, you  
9 could be charged with perjury.

10 Now, I'm not telling you that because I think you  
11 don't intend to tell me the truth this afternoon, but it's  
12 my duty to tell you that so you'll be well informed of the  
13 conditions under which you'll respond. Okay?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Very well.

18 Mr. Blanchard, how does your client intend to plead at  
19 this point?

20 MR. BLANCHARD: Guilty to the indictment, Your  
21 Honor.

22 THE COURT: All right. Is that correct, Mr.  
23 McNair?

24 THE DEFENDANT: Yes, Your Honor, it is.

25 THE COURT: Very well. You're charged in the

1 indictment with escape from United States Penitentiary in  
2 Pollock, a federal institution. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: That's the charge, I believe, that  
5 you intend to plead to today.

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right. Even though you have been  
8 advised, I'm sure, by Mr. Blanchard about your various  
9 rights, under Fifth Circuit jurisprudence on what we know  
10 as Rule 11, I'm required to address three core concerns  
11 before I can accept your guilty plea.

12 The first of those is whether your guilty plea is  
13 coerced in any way. The second is whether you understand  
14 the nature of the charge against you. And the third is  
15 whether you understand all the consequences of a plea of  
16 guilty.

17 So there are a number of questions that I have to ask  
18 you to assure myself that yours is going to be a valid  
19 plea. So if at any time during this conversation that you  
20 and I will have, if you don't understand a question or you  
21 feel like you need to consult with Mr. Blanchard further,  
22 you may stop and turn aside from the microphone and ask him  
23 basically anything you want before you answer. Okay?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Let me get you to raise

1       your right hand. You can keep your seat.

2                   THE DEFENDANT: Okay.

3                   (Defendant sworn.)

4                                   EXAMINATION

5       BY THE COURT:

6       Q. You understand, once again, having been sworn, your  
7       answers to my questions will subject you to the penalties  
8       of perjury or of making a false statement if you don't  
9       answer truthfully?

10      A. Yes, Your Honor.

11      Q. All right. Do you have a problem there?

12      A. No. I'm good. Thank you.

13      Q. All right. How much education do you have, Mr.  
14      McNair?

15      A. 14 years.

16      Q. That would be 12 years and a couple of years of  
17      college?

18      A. Yes, sir.

19      Q. When did you have college and where did you have that  
20      education?

21      A. I started it when I was 18 and pretty much finished it  
22      up while I was in prison.

23      Q. And is that a particular course of study?

24      A. Liberal arts.

25      Q. All right. So I gather -- I gather, but you need to

1 say it, I'm sure you can read and write adequately.

2 A. Yes, Your Honor.

3 Q. Are you presently under a physician's care for  
4 anything?

5 A. No, Your Honor.

6 Q. I know that you're incarcerated, but I have to ask  
7 you, have you taken any drugs, medicine, pills, or anything  
8 else, for that matter, that would cloud your ability to  
9 understand what's going on in these proceedings today?

10 A. No, Your Honor.

11 Q. You believe and feel like you're clear-headed this  
12 afternoon?

13 A. Yes, Your Honor.

14 Q. You understand, of course, why you're in court today?

15 A. Yes, Your Honor.

16 Q. All right. I want you to understand, as I indicated  
17 before, you have a right to have the assistance of counsel  
18 at all stages of the proceedings against you. And I need  
19 to ask you, do you believe that you've had an adequate  
20 opportunity to discuss the charge and the consequences of a  
21 plea with your attorney?

22 A. Yes, Your Honor, I do.

23 Q. And you're satisfied to have him represent you in this  
24 case?

25 A. Very much so, Your Honor.

1 Q. All right.

2 THE COURT: Mr. Blanchard, do you have any doubt  
3 as to Mr. McNair's competence to plead at this time?

4 MR. BLANCHARD: None whatsoever, Your Honor.

5 Q. All right, Mr. McNair, do you understand that under  
6 the Constitution and laws of the United States, you have a  
7 right to plead not guilty and to have the charge tried by a  
8 jury of 12 people, all of whom would have to agree on a  
9 verdict in the case?

10 A. Yes, Your Honor.

11 Q. And do you understand that at a trial, you would be  
12 presumed to be innocent, and the government would have the  
13 burden of proving you guilty beyond a reasonable doubt? In  
14 other words, you would not have to prove your own innocence  
15 at the trial.

16 A. Yes, Your Honor.

17 Q. Okay. Do you understand also in the course of a  
18 trial, the witnesses for the government would have to come  
19 to court and would have to testify in your presence, and  
20 your counsel, knowing him as I do, would inevitably  
21 confront and cross-examine those witnesses, could object to  
22 evidence offered by the government, could offer evidence on  
23 your behalf if you chose to have him do so? You understand  
24 those things?

25 A. Yes, Your Honor.



1 Q. Likewise, if there were favorable witnesses that you  
2 and your attorney wanted at the trial and so forth, and if  
3 they didn't want to come, you could use the court's  
4 subpoena power to make them appear. Do you understand  
5 that?

6 A. Yes, Your Honor.

7 Q. Also, at a trial, while you would have the right to  
8 testify if you chose to do so, you would also have the  
9 right not to incriminate yourself, not to be compelled to  
10 incriminate yourself, the right not to testify, in other  
11 words, and that this right would otherwise be guaranteed to  
12 you. Do you understand that?

13 A. Yes, Your Honor.

14 Q. Also, you understand that if you had a trial and if  
15 you chose not to testify, the jury could not, solely for  
16 that account, convict you on the violation being tried. Do  
17 you understand that would be waived by your guilty plea  
18 here today?

19 A. Yes, Your Honor.

20 Q. All right, Mr. McNair, if you continue in the guilty  
21 plea and if I accept it, you understand you will have  
22 waived your right to a trial and all the other rights I've  
23 just discussed?

24 A. Yes, Your Honor.

25 Q. There would be, in other words, no further trial, and

1 I will simply enter a judgment of guilty today and sentence  
2 you on a later date on the basis of your guilty plea. Do  
3 you understand that?

4 A. Yes, Your Honor.

5 Q. All right. And if you continue in the guilty plea, do  
6 you understand that you will have to waive your right not  
7 to incriminate yourself since I will, in a little while,  
8 ask you questions about what you did in order to satisfy  
9 myself that you're guilty as charged, and you have to  
10 acknowledge your guilt here today?

11 A. Yes, Your Honor.

12 Q. So are you willing now to waive and give up your right  
13 to a trial and the other rights I've just discussed?

14 A. Absolutely, Your Honor.

15 Q. And Mr. McNair, has anyone threatened you, leaned on  
16 you, or forced to plead guilty, or told you that if you  
17 don't plead guilty, further charges will be brought against  
18 you or some other adverse action would be taken against  
19 you?

20 A. No one, Your Honor.

21 Q. You understand, Mr. McNair, that the offense to which  
22 you intend to plead guilty, or indicated you intend to  
23 plead guilty to, is a felony, and if your plea is accepted,  
24 you'll be adjudicated guilty of that offense, and that  
25 adjudication may well deprive you of valuable civil rights,

1       such as the right to vote, the right to hold public office,  
2       the right to serve on a jury, and the right to possess  
3       firearms of any kind?

4       A.    Yes, Your Honor.

5       Q.    Are you willing, then, to plead guilty because you are  
6       in fact guilty as charged?

7       A.    Absolutely, Your Honor.

8       Q.    And am I to consider that that is a free and voluntary  
9       act on your part?

10      A.    Yes, Your Honor.

11      Q.    All right. I assume you received a copy of the  
12      indictment against you?

13      A.    Yes, Your Honor.

14      Q.    And have you read it yourself?

15      A.    Yes, sir.

16      Q.    Anything about it that you don't understand at this  
17      point?

18      A.    No, Your Honor.

19      Q.    All right. Even though you may think you understand  
20      it entirely and may have discussed it with Mr. Blanchard,  
21      I'm still required to tell you what the government would  
22      have to prove beyond a reasonable doubt if a trial were  
23      held on this count in this indictment.

24            As I indicated, the indictment in this case is only  
25      one count, and it charges that on or about April 5th, 2006,

1 in this district, the Western District, you knowingly  
2 escaped from the United States Penitentiary in Pollock, an  
3 institutional facility in which you were lawfully confined  
4 at the direction of the Attorney General by virtue of a  
5 conviction for the commission of an offense.

6 For you to be found guilty of escape pursuant to 18,  
7 United States Code, Section 751(a), the elements of the  
8 offense are: first, that the defendant, you, were in  
9 federal custody; that the defendant was in federal custody  
10 at the direction of the Attorney General of the United  
11 States for a conviction of an offense; third, that the  
12 defendant parted, without permission; and fourth, the  
13 defendant knew he did not have permission to leave federal  
14 custody. And in this case, "custody" means the detention  
15 of an individual by virtue of lawful process or authority.

16 Do you understand those elements?

17 A. Yes, Your Honor.

18 Q. You understand the charge against you?

19 A. Yes, sir.

20 Q. Do you have any questions about those at this point?

21 A. No, sir.

22 Q. All right. Do you understand the maximum possible  
23 penalty under Count 1 is five years in jail, plus a fine of  
24 \$250,000, or both?

25 A. Yes, Your Honor.

1 Q. I assume that you and Mr. Blanchard have gone over the  
2 matter of sentencing guidelines in this case?

3 A. Yes, Your Honor.

4 Q. He's tried to evaluate for you the application of the  
5 guidelines and where they fit if the guidelines apply here?

6 A. Yes, Your Honor.

7 Q. Any questions that you have about those that you'd  
8 like to address to him at this point?

9 A. No, Your Honor.

10 Q. All right, sir. You understand that the guidelines at  
11 this time are advisory in nature; that is, they're not  
12 mandatory, and it is the court's burden to sentence you in  
13 accordance with the law in general without the guidelines  
14 being mandatory?

15 A. Yes, Your Honor.

16 Q. You understand that we have the authority, as judges,  
17 to make upward or downward departures from those  
18 guidelines?

19 A. Yes, Your Honor.

20 Q. All right. And Mr. McNair, under the Sentencing  
21 Reform Act which is applicable in this case, you could  
22 receive a term of supervised release of not less than one  
23 year nor more than one year in length, in addition to any  
24 term of imprisonment that the court might impose.

25 You need to also be informed that a violation of the

1 conditions of supervised release at any time during the  
2 period of release may result in your being incarcerated for  
3 time over and above any period of imprisonment initially  
4 ordered by the court. You understand that so far?

5 A. Yes, Your Honor.

6 Q. You need to also be informed that the period of  
7 incarceration for a violation of a condition of supervised  
8 release could be as much as the full term of supervised  
9 release which the court initially ordered, irrespective of  
10 the amount of time of supervised release you had  
11 successfully completed. You understand that?

12 A. Yes, Your Honor.

13 Q. All right. Just to state it another way, it means,  
14 for example, if you had a year of supervised release and  
15 you did fine for six months and then had a violation, you  
16 were brought back to court, you could still receive up to a  
17 year. You understand that?

18 A. Yes, Your Honor.

19 Q. Okay. Plea agreements, I will tell you, of course,  
20 are permissible. I have been handed a plea agreement in  
21 this case. And you and the lawyers have a duty to disclose  
22 the existence of the agreement, which has occurred, and all  
23 the terms of the agreement, which has also occurred.

24 I assume the existence of the plea agreement means  
25 that you have some willingness to plead at least because a

1 plea agreement was confected in this case. Would that be  
2 fair?

3 A. Yes, Your Honor.

4 Q. I have a couple of things about this plea agreement.  
5 Do you have a copy of that there?

6 MR. BLANCHARD: Yes, Your Honor. Where do you  
7 want him to look?

8 THE COURT: Particularly paragraph 7.

9 Q. Mr. McNair, you have read those and you understand  
10 paragraph 7?

11 A. Yes, Your Honor, I do.

12 Q. That this agreement has an obligation on your part to  
13 fully and truthfully debrief with the government, in  
14 effect?

15 A. Yes, Your Honor.

16 Q. And in exchange for that particular cooperation, the  
17 government is prepared to recommend to the court that  
18 imprisonment in this case, if any, ought to run  
19 concurrently. Do you understand that that's there?

20 A. Yes, Your Honor.

21 Q. All right. I'm going to ask you something else about  
22 that in a minute.

23 Any part about the plea agreement that you don't  
24 understand or any part you want to further discuss with Mr.  
25 Blanchard?

1 A. No, Your Honor.

2 Q. All right, sir. With regard to the Crime Victims  
3 Fund, you need to be informed that upon your conviction,  
4 the court has to assess you the amount of \$100, which is a  
5 total in this case, obviously, of \$100, and as a condition,  
6 of course, of your plea agreement, that has to be paid by  
7 you. And I have no idea how you're going to do that.

8 Perhaps you have an account set up. But you understand  
9 that that will have to be handled in this particular case  
10 in connection with this plea agreement, with this plea?

11 A. Can that be, like, over a period of time, Your Honor?

12 Q. Well, let me ask the question of the attorneys.

13 THE COURT: Is this satisfactorily handled to the  
14 government's extent of comment?

15 MR. COWLES: Yes. The Bureau of Prisons will  
16 take it out of whatever account he may have.

17 MR. BLANCHARD: They have a financial  
18 responsibility program, Your Honor, if he can't pay it.

19 Q. I want you to understand that's one of the  
20 consequences of a plea and it has to happen.

21 A. Yes, Your Honor.

22 Q. All right. And I don't know of any restitution that  
23 might appear in the case, but I need to tell you that in  
24 any case where restitution is appropriate, restitution  
25 would be in addition to any penalties I've discussed with



1       you, and if the court should have you ever have to make  
2       restitution in a case, the amount and method of payment is  
3       entirely within the discretion of the court. Do you  
4       understand that?

5       A.    Yes, Your Honor.

6       Q.    In this case we mentioned a minute ago your plea  
7       agreement does require you to cooperate with the  
8       government. Do you understand that to the extent you do  
9       cooperate and fulfill that obligation of the plea  
10      agreement, I will examine that matter at sentencing in this  
11      case?

12      A.    Yes, Your Honor.

13      Q.    Now, has anybody made any promises to you other than  
14      those contained in this plea agreement?

15      A.    No, Your Honor.

16               THE COURT: Counsel, would you indicate for the  
17      record for me, please, whether there are any side  
18      agreements whatsoever?

19               MR. COWLES: None, Your Honor.

20               MR. BLANCHARD: No, Your Honor.

21      Q.    All right, Mr. McNair, this plea agreement has a  
22      provision for the government to make a recommendation for a  
23      concurrent sentence. We've talked about that. It is  
24      likely that after today, your attorney and/or the  
25      government may give me some more input on what they think

1 the sentence in this case ought to be.

2 You understand that any recommendation of sentence,  
3 either agreed to by your counsel and the United States or  
4 not agreed but recommended by either side, is not binding  
5 on the court and that you might, on the basis of your  
6 guilty plea, receive a more severe sentence than requested  
7 or recommended?

8 A. Yes, Your Honor.

9 Q. And do you also understand that if the court does not  
10 follow the recommendation from any counsel in the case,  
11 agreed or not, you would have no right to withdraw your  
12 plea of guilty today?

13 A. I understand that, Your Honor.

14 Q. Now, aside from that, has anybody made any other  
15 prediction or prophecy or promise to you as to what your  
16 sentence would be in this case?

17 A. No, Your Honor.

18 Q. Because of your guilty plea, has anybody -- well, you  
19 understand that the court will sentence you first based  
20 upon the calculation of the applicable guideline range.  
21 Then we'll consider that range. We'll consider other  
22 departures under the guidelines, and also the sentencing  
23 factors in 18 U.S.C. Section 3553(a). You understand that?

24 A. Yes, Your Honor.

25 Q. You fully understand, once again, your sentence,

1       whatever it is, is entirely up to me, not up to your  
2       lawyer, not up to the Assistant United States Attorney?

3       A.     Yes, Your Honor.

4       Q.     All right. Then you understand you have a right, of  
5       course, to appeal the sentence that I impose upon you. But  
6       do you understand that the failure of the court to adhere  
7       to any sentencing recommendation by any attorney in the  
8       case, even the one in the plea agreement, is not a basis,  
9       again, for setting aside your guilty plea?

10      A.     Yes, Your Honor.

11      Q.     All right. Mr. McNair, do you understand that if the  
12      court accepts the plea agreement in this case, to the  
13      extent that there are recommendations here or to the extent  
14      the government indicates this is the only charge in the  
15      case, all those dispositions, to the extent they're  
16      required to be, will appear in the judgment in this case?

17      A.     Yes, Your Honor.

18      Q.     Okay.

19               THE COURT: Mr. Cowles, the burden is on you,  
20      sir. Do you have a witness to present at this point?

21               MR. COWLES: Yes, Your Honor. I call Glenn  
22      Belgard.

23               THE COURT: Stand and raise your right hand.

24               (Witness sworn.)

25               THE COURT: Please be seated. Answer questions

1 from the attorneys.

2 DIRECT EXAMINATION

3 BY MR. COWLES:

4 Q. Would you please state your name, spell your last  
5 name, and state your employment?

6 A. My name is Glenn Edward Belgard. The spelling of my  
7 last name, B-e-l-g-a-r-d. I'm a Deputy United States  
8 Marshal in the Western District of Louisiana.

9 Q. And are you familiar with the investigation which led  
10 to the charge on Mr. McNair of this escape?

11 A. Yes, I am.

12 Q. All right. Was Mr. McNair serving a prison sentence  
13 in federal custody at the Bureau of Prisons -- at the  
14 United States Penitentiary in Pollock, Louisiana?

15 A. Yes, he was.

16 Q. And on April 5th of that year, did he escape from that  
17 custody?

18 A. Yes, he did.

19 Q. And at the time he escaped, was he serving a sentence  
20 under the authority of the Attorney General -- actually,  
21 what he was serving was a state sentence out of North  
22 Dakota; is that right?

23 A. That's correct. Under an agreement, he was under the  
24 Attorney General of the United States.

25 Q. Right. And the Attorney General of the United States,

1 through the Bureau of Prisons, had agreed to allow Mr.  
2 McNair to serve that state sentence in the federal  
3 facility?

4 A. That is correct.

5 Q. And that was an agreement between the Bureau of  
6 Prisons and the state of North Dakota?

7 A. That is correct.

8 Q. And on April 5th, he departed that institution without  
9 permission; is that correct?

10 A. That is correct.

11 Q. And when he was subsequently -- that was on April 5 of  
12 2006; is that right?

13 A. Yes, sir.

14 Q. And he was arrested in October of 2007 in New  
15 Brunswick, Canada; is that right?

16 A. That's correct, October 25th, 2007.

17 Q. And that's when he was arrested by the Royal Canadian  
18 Mounted Police?

19 A. Yes, sir.

20 Q. And subsequently transferred back to the United States  
21 to Pollock?

22 A. That's correct.

23 Q. And you've actually interviewed him after his arrest  
24 in October?

25 A. I have. As a matter of fact, I traveled to meet the

1 RCMP at the port of entry.

2 Q. And at that time, Mr. McNair admitted that he escaped  
3 and he knew he shouldn't have?

4 A. Yes, he did.

5 MR. COWLES: That's all I have, Your Honor.

6 THE COURT: Any questions, Mr. Blanchard?

7 MR. BLANCHARD: No, Your Honor.

8 THE COURT: All right. The court has no  
9 questions. You may step down, sir, and return to your  
10 seat.

11 Mr. McNair, you've heard Deputy Marshal Belgard talk  
12 about this. Do you agree with what he said?

13 THE DEFENDANT: Absolutely, Your Honor.

14 THE COURT: All right, then. Mr. McNair, I read  
15 to you earlier the elements of the offense in this case.  
16 Do you need me to do that again?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Is there anything else about the  
19 elements, about the charge that you think you don't  
20 understand and you'd like me to go over again?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Do you understand each of those  
23 elements that I read to you and agree that you've committed  
24 each and every one?

25 THE DEFENDANT: Yes, Your Honor.

1           THE COURT: All right. Very well. Having heard,  
2 then, the court's explanation of all the elements and also  
3 the maximum penalty and all the rights given up by a plea  
4 of guilty and all the consequences of that plea, I ask you,  
5 Mr. McNair, do you wish to continue in your guilty plea?

6           THE DEFENDANT: Absolutely, Your Honor.

7           THE COURT: Then I ask you formally, how do you  
8 plead to the one count of the indictment?

9           THE DEFENDANT: I plead guilty, Your Honor.

10          THE COURT: All right. Thank you. I'm satisfied  
11 that Mr. McNair fully understands the nature of the charge  
12 and the consequences of a plea of guilty, and I find that  
13 the plea is voluntarily and knowledgeably entered, and the  
14 plea is accepted as entered. And likewise, the written  
15 plea agreement is accepted in accordance with Rule  
16 11(c)(4).

17          Now, with regard to sentence in this case, the  
18 sentencing in the case, I am fixing the sentencing date for  
19 May 12th, 2008 at 9:30 in the morning.

20          MR. COWLES: Your Honor --

21          THE COURT: There was a request made -- yes.

22          MR. COWLES: I have a trial scheduled to start  
23 that day in Shreveport. Is it possible to --

24          THE COURT: Well, let me say this. I'm going to  
25 leave it on the calendar for that date for the moment.

1 MR. COWLES: All right.

2 THE COURT: I received a request both from Mr.  
3 Blanchard prior to today and also by letter from Mr. McNair  
4 which I have here -- It's a handwritten letter. It was  
5 handed to me a little while ago. I'm going to hand it to  
6 the clerk to put in the record and remain under seal --  
7 with a request for an earlier sentencing date. I'm not  
8 prepared to sentence Mr. McNair today, even though my  
9 appreciation is that he might be willing to waive  
10 presentence investigation.

11 It is my view that to simply allow that to occur would  
12 be an exceptional rather than a usual circumstance, and I  
13 don't see anything in this case that should suggest to  
14 accept a waiver of the time period, particularly since Rule  
15 32 really requires that I have enough information on the  
16 defendant and his background to properly sentence him under  
17 the guidelines and the statutes, and I just simply don't  
18 have that, so I'm setting it for May 12th.

19 I will indicate that if the presentence report is  
20 concluded at a time short of the usual, I would entertain a  
21 refixing of that date. I understand we have a conflict  
22 there anyway.

23 So the simple answer is, Counsel, you just have to be  
24 in touch with the court once the presentence investigation  
25 is complete to determine a possible earlier refixing date,



1 and that's the best I can do today.

2 MR. BLANCHARD: Yes, Your Honor.

3 THE COURT: All right, Mr. McNair, the court will  
4 require you to work with Mr. Blanchard who is to assist you  
5 in being certain that information furnished to Probation  
6 Services and to this court is accurate.

7 I don't know how long you've been incarcerated at this  
8 point or whether you've had occasion to file tax returns,  
9 but to the extent that you have them or they have been  
10 filed, you'll be required to furnish your last five years'  
11 tax returns to Probation Services within 45 days from  
12 today, and if you don't have them, to sign such documents  
13 as may be necessary to allow those returns to be obtained  
14 from the Internal Revenue Service. Are you with me on  
15 that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. And of course, Mr. McNair  
18 is presently incarcerated for another offense, so as I  
19 appreciate it, the issue of release is not an issue today.  
20 He'll be, of course, detained.

21 Anything else in this particular matter?

22 MR. COWLES: No, Your Honor.

23 THE COURT: Mr. Blanchard?

24 MR. BLANCHARD: No, Your Honor.

25 THE COURT: All right. Then that will conclude

1 the McNair matter. We're going to be recessed for a few  
2 minutes pending the next matter.

3 Mr. McNair, in the meantime, keep it cool.

4 THE DEFENDANT: Thank you, Your Honor.

5 (End of proceedings at 2:02 p.m.)  
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C E R T I F I C A T E

I, Myra Primeaux, Official Court Reporter, do hereby  
certify that the foregoing pages numbered 1 through 26 do  
constitute a true and correct record of proceedings had in  
said Change of Plea to the best of my ability and  
understanding.

I certify that the transcript fees and format comply  
with those prescribed by the court and the judicial  
conference of the United States.

Subscribed and sworn to this 9th day of March, 2009.

s/ Myra Primeaux

MYRA PRIMEAUX, RMR, CRR  
U.S. Court Reporters Office  
Post Office Box 348  
Alexandria, Louisiana 71309  
Phone: (318) 442-3080